

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMEL PORTIS,

Petitioner,

v.

9:16-CV-0290  
(GTS/ATB)

MICHAEL KIRKPATRICK, Superintendent,  
Clinton Correctional Facility,

Respondent.

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APPEARANCES:

OF COUNSEL:

JAMEL PORTIS, 12-A-1694  
Petitioner, *Pro Se*  
Clinton Correctional Facility  
P.O. Box 2002  
Dannemora, New York 12929

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ALYSON J. GILL, ESQ.  
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *habeas corpus* proceeding filed *pro se* by Jamel Portis (“Petitioner”) pursuant to 28 U.S.C. § 2254 arising from 2012 conviction for Second Degree Criminal Conspiracy in Albany County Supreme Court, is a Report-Recommendation dated October 12, 2016, of United States Magistrate Judge Andrew T. Baxter recommending that Petitioner’s Petition be denied and dismissed, and that a certificate of appealability not issue. (Dkt. No. 19.) Petitioner has not filed an objection to the Report-Recommendation and the time in which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing all of the

papers in this action, the Court can find no clear error<sup>1</sup> in Magistrate Judge Baxter's Report-Recommendation: Magistrate Judge Baxter employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 19, at Part II-IV.) As a result, the Court accepts and adopts Magistrate Judge Baxter's Report-Recommendation in its entirety for the reasons stated therein.


**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 19) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that the Petition (Dkt. No. 1) is **DENIED** and **DISMISSED**; and it is further

**ORDERED** that a certificate of appealability not issue with respect to any of the claims set forth in the Petition, because Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2).

Dated: November 17, 2016  
Syracuse, New York

  
HON. GLENN T. SUDDABY  
United States District Judge

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).